

Citizens' Utility Ratepayer Board

Board Members:

Gene Merry, Chair
A.W. Dirks, Vice-Chair
Carol I. Faucher, Member
Laura L. McClure, Member
Douglas R. Brown, Member



State of Kansas

Kathleen Sebelius, Governor

David Springe, Consumer Counsel
1500 S.W. Arrowhead Road
Topeka, Kansas 66604-4027
Phone: (785) 271-3200
Fax: (785) 271-3116
<http://curb.kcc.state.ks.us/>

HOUSE UTILITIES COMMITTEE H.B. 2588

Testimony on Behalf of the Citizens' Utility Ratepayer Board
By David Springe, Consumer Counsel
January 24, 2006

Chairman Holmes and members of the committee:

Thank you for this opportunity to offer testimony on H.B. 2588. The Citizens' Utility Ratepayer Board is opposed to this bill for the following reasons:

CURB is not opposed to the proposed language in Section 1 (page 2, line 25) of the bill, amending K.S.A. 66-128g and requiring the Kansas Corporation Commission "shall" consider technologies which provide long-term economic, social and other benefits in determining prudence. CURB believes that the Commission does this currently, and the language is consistent with the current discretion and scope of the Commission's authority. CURB would prefer to replace the "shall" in line 27, page 2, with "may", to give the Commission flexibility. There may be instances where prudence under K.S.A. 66-128g is apparent, and the new language would require an extensive analysis in every instance, of other less germane issues simply because the Commission has no choice given the "shall" in the statute. Some flexibility may be preferred.

CURB is opposed to Section 2 and Section 3 of the bill. Both of these sections contain the same general language, with Section 2 applying to CURB and Section 3 applying to the Kansas Corporation Commission.

Section 2: Amends K.S.A. 66-1223 to include "*In carrying out their duties, the citizens' utility ratepayer board and the consumer counsel shall support use of electric generation and transmission facilities which have the lowest cost over the life if the facility rather than the lowest short term cost.*"

It is, and has always been the policy of CURB to seek the lowest "reasonable" rates for our consumers. CURB recognizes that there are many important factors that go into resource acquisition and the ratemaking process, and a myopic goal of simply achieving the absolute lowest rate outcome is not necessarily in the best interest of the consumers we represent. The Board takes into consideration many factors, some cost based, some not cost based, it determining what it believes to be a reasonable on behalf of the consumers CURB represents.

CURB views the proposed language in this bill as taking away that flexibility. The language places an affirmative mandate (“shall support”) on CURB, to the exclusion of all else, to find the electric generation and transmission facilities with the lowest cost over the life of the facility. This will require constant study to determine exactly which resource has this characteristic in every instance. As drafted, CURB is unclear whether this will allow any flexibility to take into account other considerations that may be appropriate and beneficial for the consumers CURB represents. While the lowest long term costs are certainly important, there are other important factors that the Board must consider.

More importantly, CURB has always operated as an independent agency, with the Board setting policy and overseeing the positions that the agency takes on issues. The legislature created CURB to be the voice of, and representative for, the interests of residential and small commercial ratepayers. To date, the legislature has never dictated to the Board how it should best represent those interests.

CURB respectfully requests that the Committee delete the language contained in Section 2 of this bill as it relates to the agency, and the agency’s representation of its clients interest.

Section 3: Requires the Commission, in carrying out its duties, “shall support” use of electric generation and transmission facilities which have the lowest cost over the life of the facilities rather than the lowest short term cost. CURB is concerned that as the decision making body for the state, the language “shall support” may bind the hands of the Commission, regardless of what CURB, the utilities or other entities may propose in any given instance. Rather than being open to hearing all evidence in support of, or in opposition to a proposal, and to make a decision based on the evidence, the language here requires the Commission to support only one possible outcome.

CURB would also note that there may be an inconsistency between what the Commission “shall support” per this language, and what the Commission “shall consider” in the language in Section 1 of the bill. Section 1 of the bill requires the Commission shall consider technologies with long term economic, social and other benefits, including environmental benefits, which may all be irrelevant if the Commission shall support only the particular option with the lowest long term cost.

CURB respectfully requests that Section 3 of the bill also be deleted.